

OPEN HOUSE QUESTIONS & ANSWERS

1. To whom are the penalties and fees listed on the Financial Activity Report payable to? How and when is the payment made?

The penalty is payable to the referring agency via the On-Line Payment and Collection (OPAC) System. The fees represent Treasury's various collection fees as follows:

- ◆ Debt Management Services (DMS) fee is 18%;
- ◆ DMS fee drops to 3% when referred to a Private Collection Agency (PCA) or to Department of Justice (DOJ) on non-judgment cases;
- ◆ PCA fee is 25%, and DOJ fee is 3%;
- ◆ DMS fee drops to 3% when a Treasury Offset Program (TOP) offset occurs;
- ◆ TOP fee of \$11.75 deducted from collection.

The agency elects whether or not to charge fees to the debtor.

2. What progress has been made to resolve issues related to your debt based system? (i.e. multiple debtors, only one can be referred to TOP, Administrative Wage Garnishment (AWG), and joint/severally liability/partial releases).

The Financial Management Service (FMS) is developing requirements for an enhanced system that would allow sufficient flexibility to deal with the various multiple debtor issues. This is a long-term project, and it may be 2 – 3 years before these enhancements are available to users.

3. Can an agency request a debt remain in TOP but not in cross-servicing? (i.e. withhold Internal Revenue Service (IRS) refund but no other collection effort).

Debts eligible for cross-servicing must be serviced using all available collection tools, except as prohibited by statute (for example, certain types of debts may not be eligible for PCA referral). Once a debt has gone through the cross-servicing collection process and collection attempts were unsuccessful, the debt may remain in TOP until the time limit for collection by offset expires (normally 10 years).

4. Why are debts returned as compromised and/or paid in full but agency's records do not indicate a compromise/concurrence offer?

The Agency Profile provides the basis for accepting compromise offers on debts. Compromises may only be accepted up to the limits established by the agency. An Action Form is provided to the agency when concurrence is needed for compromise offers beyond the limits established by the agency. If FMS is authorized to compromise on the agency's behalf, the agency will not be notified of the compromise until the debt is returned. Action Forms are prepared and forwarded to the agency when debts are compromised and/or paid in full and returned to the agency.

5. **Multiple debts – if we send a debt for cross-servicing in January and a repayment agreement was established and in August we refer a second debt, is there any means of getting these debts assigned to the same collector or PCA for a more efficient collection process? Debtors sometimes do not realize there are more than one debt.**

The Debt Management Servicing Center (DMSC) System has a feature called "Auto Assign" that remains as the automatic selection when assigning debts. This means that if a debt for a particular debtor was assigned to a collector in January, and the same debtor has another debt referred in August, the debt received in August will be assigned to the same collector.

There is no feature in the PCA Monitoring and Control (PMAC) System that allows the referral of debts for the same debtor to be referred to the same PCA.

6. **At times, the debtor will pay more than the amount that was referred. Does FMS review payments against debts? How are the overpayments handled and what action does FMS expect from the agency?**

When an overpayment occurs, we check our DMSC System to ensure that there are no other outstanding debts for the same debtor that the funds can be applied to. If there are no other outstanding debts in cross servicing, we OPAC the funds to the agency and refer the debtor to the agency for a refund. This process allows the agency to determine if the debtor has any other outstanding obligations that have not been referred to Treasury for collection and eliminates the possibility of the debtor seeking refunds from both FMS and the agency.

7. **Are compromise dollar amounts counted in the account resolution figures?**

No. Administrative resolution figures only include cases that are resolved due to death, bankruptcy, or disability with inability to pay.

8. **Do you pursue debts when the debtor lives in Canada?**

Yes. We will pursue debtors living in foreign countries, however, successful collection is far less likely than when the debtor lives in the United States. For these cases, it is especially helpful for the agency to provide information on any known assets.

9. **What happens when requests to agencies for more information are not responded to within 15 days?**

When requests for information are not responded to within 15 days (such as compromise concurrences) FMS will act on behalf of the agency in the best interests of the government unless legally prohibited. In cases of a debtor dispute, FMS typically allows 30 days for an agency to respond.

10. **I have updated our profile but faxes still go to the outdated name and number. How do I ensure that all who need the updated information have it?**

Please contact your agency liaison and inform him/her that your requested changes to contact information have not been made. The liaison can insure that updated information is input into our system profile and provided to other users of the information.

11. **If we refer a debt without a Tax Identification Number (TIN) that is returned as uncollectible, may we refer again if we discover the debtor's TIN?**

Yes. The debt may be referred directly to TOP for future offset possibilities. If the debt is re-referred to cross-servicing, it will be referred to TOP, but it will also be subject to the entire cross-servicing collection process (demand letter, PCAs, etc).

12. In conversations with Treasury last year, we discussed increasing the debt referral limit from \$25 to \$100. What is the status of this policy?

FMS has determined that it is not cost effective to refer debts under \$100 for cross-servicing if no TIN is available. We will continue to accept these debts and refer them to TOP if a TIN is available, however, agencies should seriously consider write-off if they do not have a TIN and the debt is less than \$100. Also, the debt must be \$100 in order to refer it to a PCA.

13. If a debtor becomes deceased can the debt be collected from the debtor's estate?

Generally, the mechanism for collecting a debt from a deceased debtor's estate is to file a proof of claim with the fiduciary of the estate or as otherwise provided by law. FMS does not provide this service, and it is the agency's responsibility to do so if they wish to pursue the debtor's estate. Debts for deceased debtors may not be referred for cross servicing. If DMS determines that a debtor is deceased, the debt will be returned to the agency.

14. What are the criteria for determining 1099-C eligibility? Is it only debts that come out of TOP? Debts declared uncollectible, etc.?

FMS prepares 1099-Cs based on instructions provided in the Agency Profile. A debt is eligible for a 1099-C if we have a TIN and 1) the compromised or discharged amount exceeds \$600; 2) the debt amount exceeds \$600 and was determined to be uncollectible; or 3) the debt exceeds \$10,000 with multiple debtors (jointly and severally liable). Client agencies may opt to issue their own 1099-Cs. Also, 1099-Cs for amounts over \$100,000 will be processed by the client agency since, for most agencies, DOJ approval is required for the compromise or termination of collection with respect to debts over \$100,000.

Note that debts left in TOP will be issued a 1099-C after the time limit for collection by offset (normally 10 years) expires.

15. When FMS/PCAs are informed that a debtor has filed bankruptcy, do they verify the bankruptcy, i.e., whether it was upheld, dismissed, etc.?

When the BDMOC or PCAs become aware of a bankruptcy, a copy of the bankruptcy notification with the list of creditors and the court's ruling is obtained. Upon notification of bankruptcy all collection activity ceases. If the bankruptcy is dismissed, collection efforts continue, however, if it is discharged and the debt is included on the list of creditors, the case is returned to the agency.

16. It was mentioned that 10 years is used for the statute of limitations. Do you use 10 years for both individual and institutional debts?

The statute of limitations (SOL) governing the deadline by when a lawsuit must be instituted varies depending upon the type of debt being collected. In most cases, the time limit for collection by offset is 10 years for both individual and institutional debts. Agencies should check with their legal counsel for information on their specific programs.

17. What systems/credit reports does Birmingham use to obtain TINS (i.e. TRW, AutoTrak, etc.)?

We use Experian and Auto Track, but are very cautious in assuming that the TIN is the correct TIN for the debtor. This is especially true when a TIN is found on an AutoTrack report. We often see the same TIN used by individuals other than the debtor. We also make it a policy to ask the debtor for their TIN, if we are able to contact them.

18. Is there any a way for Treasury to combine a debtor's debts when a compromise/concurrence offer is made?

This is possible if the compromise/concurrence offer occurs while the debts are still being serviced at Birmingham (i.e. during the first 30 days). Once cases have been referred to private collection agencies, consolidation is unlikely.

19. For debtors with multiple small debts, if one is uncollectible, can FMS return all at that time?

Currently, all debts appearing on the collector worklist as uncollectible are reviewed and returned to the agency. Often there are multiple debts for the same debtor, and they are returned with a single DMS Action Form. At this time, it is impossible, due to the volume of debts, to search the system to determine if there are multiple debts for a single debtor.

20. When a debtor is removed for whatever reason (bankruptcy, death, etc.) why do you remove the entire case if the other debtors are jointly and severally liable?

Unfortunately, this is one of our current system limitations since we have a debt-based system. We do not have any way to remove a single debtor without removing the entire debt. One option is for the agency to re-refer the case with only those debtors who are still legally liable.

21. Under the new PCA contract will Treasury send all debts that are associated with a debtor to one PCA? Sometimes debts are compromised and the debtor believes he/she is compromising all debts even if debts are at multiple PCA's.

No, the new PCA contract does not call for all debts for one debtor to be sent to the same PCA. The PCAs are instructed to tell debtors that they are only compromising the debt they are servicing.

22. With the six-month time limit does this include payment plans – i.e. PCA can't have a debt in a plan that is more than six months. If so, this may be an area to increase time limits for approved plans.

PCAs have six months to service the debt. The PCA can set up a REPAYMENT PLAN for more than the six-month time period, however, COMPROMISE REPAYMENT PLANS cannot be entered into for more than 6 months. Since the debtor is receiving a break on the amount that is due, a policy decision was made that the payments should be made within 6 months. The restriction on 6 months for a payment plan relates only to compromise repayment plans.

23. There has been a long-standing problem with Education loans. PCAs use the AWG authorities to send garnishments to federal agencies. Will training for PCA's prevent this? Is there an interface with TOP (to recall from TOP when an AWG satisfies a debt, for instance)?

Treasury personnel will review PCA requests for use of the AWG tool before the garnishment order is issued. If a PCA erroneously requests a garnishment order for a Federal agency, it will not be processed. Also, the case will be pulled from TOP once the garnishment order has satisfied the debt.

24. What are you doing to reduce the number of double collections where the PCA is collecting at the same time TOP is collecting?

While double collections can create administrative issues, both for FMS and the creditor agency, we believe that the risk of over-collection is preferable to missed opportunities for collection. Many debtors will intentionally enter into a repayment agreement in the hope of receiving their tax refund, and then immediately default. Currently, our Birmingham staff will consider removing a debtor from TOP when a debtor requests removal and a thorough review of the debtor's payment history has been made.

25. Credit Bureau question – When does the debt get taken out of credit bureau if not paid, TIN or no TIN?

The debt is deleted from the debtor's file seven years after it was originally reported with a TIN. Debts cannot be referred for credit bureau reporting without a TIN. When a debt is returned to the agency, the information is provided to the credit bureaus. Currently, updates to credit bureaus are made monthly for consumer debts and quarterly for commercial debts. If a debt is returned to the agency, the credit bureau will be notified during the next update (monthly or quarterly).

26. Why do you wait 30 or 60 days to refer debts to Credit Bureaus? They are already about 180 days delinquent when you get them.

The referral time is 60 days to report consumer debt and 30 days to report commercial debt, then monthly and quarterly respectively thereafter. This provides the debtors with time to contact FMS, enter into a repayment agreement, or let FMS know about any unresolved disputes. Also, many debts are not valid and FMS would like to resolve these prior to reporting to a credit bureau.

27. For credit bureau disputes, if the debtor is disputing the amount of the debt, why doesn't the FMS representative try to answer these disputes? We don't know the current balance. This question refers to consumer disputes.

FMS representatives usually update any disputes that are just asking about balances. When a debtor disputes that a debt is theirs, FMS must rely on the agency to re-verify that the debtor they referred is the debtor we referred to the credit bureau.

28. Does FMS perform some type of reconciliation on Treasury Report On Receivables (TROR) received from agencies as to number and dollar amount of accounts referred for cross-servicing?

The creditor agency is responsible for the accuracy of data reported on the TROR. FMS will compare the data agencies submit against cross-servicing and TOP referral data, and any discrepancies will be referred back to the creditor agency for correction.

29. Are there any instances allowable that the agency can refer debts directly to DOJ, bypassing referral to DMS?

Creditor agencies may make direct referrals to DOJ. However, once a case is referred to FMS for cross-servicing, the creditor agency must wait until the case is returned before the case can be referred to DOJ directly. We suggest that questions about direct referrals be directed to Collette Gumbs, with DOJ's National Central Intake Facility at (301) 585-2591.

30. My agency refers restitution and disgorgement debts. Are these debts treated any differently? If collected, would you contact the agency for a distribution list?

FMS is accustomed to handling various forms of delinquent federal debt, including restitution, disgorgement and redress collections. Recovery in all instances is forwarded on to the creditor agency (less applicable fees). Upon receipt, the creditor agency is responsible for distribution of the funds, whether to victims, injured parties, or the Treasury's General Fund.

31. What is the status of the Interagency Agreement/Memo with DOJ regarding raising \$100,000 compromise and waiver limit?

FMS' letter to DOJ to raise the compromise authority from \$100,000 to \$500,000 is under consideration at DOJ. We anticipate a decision within 6 months.

32. Who will conduct AWG Hearings? The VA does not have Administrative Law Judges.

You should comply with the 31CFR part 285 (Administrative Wage Garnishment (AWG)). The Debt Collection Improvement Act (DCIA) does not require an independent hearing official. A hearing official may be any qualified individual, as determined by the head of the agency, including, but not limited to, an administrative law judge.

In addition, some agencies offer administrative hearing services on a reimbursable basis. You may contact Ronda Kent of our legal staff at 202-874-4182 for information on agencies who offer this service.

33. At one point, a while back, it seemed like Treasury would conduct the Hearings. True/False?

This is false. Treasury has never agreed to conduct AWG hearings on behalf of creditor agencies.

34. If all information is provided, how long does it take for a recall to be researched and approved?

It will vary due to incoming workload of recall requests. Bankruptcy filings and bankruptcy discharges receive priority and are acted upon immediately. Others may take up to a week or two. You can call Benton Barger at 202-874-6778 to check the status if longer than two weeks has passed. We are in the process of streamlining the recall process to expedite the recalls, and a technical bulletin on the subject will be forthcoming.

35. Can we look at creating an EXCEL form or some other vehicle for notifying you of recalls? Rather than preparing a separate form for each recall request, we would like to consolidate the requests on one list and either fax or email it to you. We would like to see something similar for you notifying us of the returns rather than sending a separate form.

We are currently in the process of implementing a streamlined recall process. A technical bulletin addressing this issue will be forthcoming in the next few weeks.

36. We have hundreds of debtors with multiple small debts, is there a way to "Batch recall" debts?

Yes, the agency must send a listing or spreadsheet with the agency ID, debtor name, DMSC debt ID number, TIN (if available) and reason for recalling the debts to benton.barger@fms.treas.gov. This process will be addressed in the forthcoming technical bulletin on the streamlined recall process.